



State of Illinois
Department of Human Rights

Filing a Charge of Discrimination

Under the Illinois Human Rights Act

ILLINOIS DEPARTMENT OF
 **Human Rights**

*What The
Law Provides*

*How To File A
Charge Of
Discrimination*

The Illinois Department of Human Rights

The Illinois Department of Human Rights (“IDHR”) is the state agency responsible for enforcing the Illinois Human Rights Act (“Act”).

MISSION

THE MISSION OF THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS IS TO SECURE FOR ALL INDIVIDUALS WITHIN THE STATE OF ILLINOIS FREEDOM FROM UNLAWFUL DISCRIMINATION AND TO ESTABLISH AND PROMOTE EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION AS THE POLICY OF THIS STATE FOR ALL ITS RESIDENTS.

The *Illinois Human Rights Act* prohibits discrimination with respect to employment, financial credit, public accommodations and real estate transactions because of a person's race, color, religion, sex (including pregnancy and sexual harassment), national origin, ancestry, age, order of protection status, marital status, disability, sexual orientation (including gender identity), arrest record in employment, familial status in housing (families with children under the age of 18) and more.

Employment: The law protects persons from discrimination in all terms and conditions of employment, including hiring, selection, promotion, transfer, pay, tenure, discharge, and discipline.

Fair Housing (real estate transactions): It is unlawful to discriminate in the sale or rental of residential or commercial property. A few examples of such discrimination are:

- Altering the terms, conditions or privileges of the transaction.
- Refusing to provide housing to families with children.
- Refusing to allow reasonable accommodations/modifications for accessible housing for people with disabilities.
- Misrepresenting that property is not available for rental or sale.

What is the Law?

Financial Credit: All financial institutions doing business in Illinois are prohibited from discriminating in the granting of mortgages, commercial or personal loans, and credit cards.

Public Accommodations: It is unlawful to discriminate in the full and equal enjoyment of facilities, goods and services by any place of public accommodation, such as a business, recreation, lodging, entertainment, or transportation facility.

Sexual Harassment in Education: The law prohibits unwelcome advances of a sexual nature or requests for sexual favors of students by an executive, faculty member, administrative staff member, or teaching assistant in a public or private educational institution when such behavior interferes with the student's performance; creates an intimidating, hostile or offensive environment; or is a term or condition of academic or extracurricular opportunities.

You may be able to file a charge of discrimination with IDHR if:

- 1) you are subjected to discriminatory treatment by a covered individual, business, employer, labor organization, employment agency, or government agency;
- 2) the conduct was based on your status in one of the protected classes;
- 3) the conduct was in one of the five covered areas; and
- 4) **the charge is filed with IDHR as soon as possible after the discrimination occurs, but no later than 180 days after the date the discrimination took place. (You are allowed one year to file charges of housing discrimination.)**

How to File a Charge If you believe your rights have been violated, you can speak to a member of IDHR's intake staff to discuss your concerns. They will interview you and, if your allegations are covered by the Act, will draft a charge, which you must sign and have notarized. IDHR staff does not suggest reasons to file, but will discuss the various types of discrimination and explain the procedures for filing a charge. In addition, IDHR may provide referrals to other agencies where appropriate.

WHAT COMPLAINANTS SHOULD TELL US WHEN FILING A CHARGE:

WHEN YOU FILE A CHARGE OF DISCRIMINATION, YOU WILL NEED TO GIVE AS MUCH DETAILED INFORMATION AS POSSIBLE.

- BE SURE TO GIVE YOUR FULL NAME, MAILING ADDRESS, EMAIL ADDRESS IF AVAILABLE, A PHONE NUMBER WHERE YOU CAN BE REACHED, AND INFORMATION FOR A CONTACT PERSON IF YOU CANNOT BE REACHED.
- GIVE ACCURATE AND COMPLETE INFORMATION (INCLUDING NAME(S), ADDRESS(ES) AND TELEPHONE NUMBER(S)) OF THE EMPLOYER, UNION, INDIVIDUAL, OR OTHER ORGANIZATION THAT YOU BELIEVE DISCRIMINATED AGAINST YOU.
- GIVE THE MOST RECENT DATE THE ALLEGED DISCRIMINATION TOOK PLACE.
- PROVIDE NAMES AND CONTACT INFORMATION FOR ANY WITNESSES AND COPIES OF ANY RELEVANT DOCUMENTS.

A charge may be initiated in writing, by phone or in person. Forms are available on IDHR's website. (If you file in person, please note that all visitors are subject to screening and must have a picture ID to access the building.) A copy of the charge and an initial request for information will be served on the Respondent (the person or entity you feel discriminated against you) by mail within 10 days.



A mediation conference is an alternative to an investigation and may quickly resolve a charge. Mediation is an informal, no-cost process in which Complainants and Respondents (referred to as “the parties”) meet voluntarily with a trained and certified IDHR mediator, who helps them explore possible resolution of the charge. The mediation process is confidential and all mediation settlement conferences are held in IDHR's Chicago office. During the mediation (which can take four hours or more), attorneys may be present in an advisory role. IDHR's mediator does not impose a decision on the parties. Accepting a settlement agreement does not constitute an admission of guilt by the Respondent. The terms of settlement can include monetary and/or non-monetary elements. After a mediation settlement is reached, the parties have a short timeframe in which they may opt out of the settlement. If the parties are unable to reach an agreement, the charge will proceed through to the investigation stage.

Mediation

The Investigation The case moves to the investigation stage if the parties do not participate in mediation or if the mediation is unsuccessful. Complainants and Respondents have a responsibility to cooperate with IDHR's investigation. IDHR also has the power to subpoena relevant documents and persons.

IDHR's role is to conduct a *neutral* investigation of the allegations in the charge. The investigator assigned to the case may contact and interview relevant witnesses and may obtain pertinent documents from the parties. Respondents are required to *preserve any records* pertinent to the charge. In addition, **Respondents are prohibited from retaliating against any person because s/he has filed or has otherwise participated in the investigation of a charge.** A person who believes s/he has been retaliated against may file a retaliation charge with IDHR.

The Fact-Finding Conference

The parties may be required to attend a fact-finding conference, which is a face-to-face meeting conducted by an IDHR Investigator. It is an investigative tool designed to secure either a thorough investigation or an early voluntary settlement. Each party presents its side of the dispute and responds to the opposing side. Failure to attend the fact-finding conference without a good reason can result in dismissal of the charge for Complainants or default for Respondents.

If a fact-finding conference is held, the parties may bring legal counsel if the attorney has entered a “Notice of Appearance.” However, attorneys have a role that is strictly advisory and they may not testify at the conference except on matters of which they have first-hand knowledge, nor may they ask direct questions of either party.

It is not required for the parties to be represented by attorneys.

The investigator will make sure that all parties have a full and fair opportunity to present their facts and evidence. Complainants not represented by legal counsel may bring a friend or relative to the conference for advice and moral support; however, that individual may testify only on matters of which s/he has first-hand knowledge relating to the charge. In addition, Complainants may bring an interpreter to the conference if needed. Witnesses may also participate in the fact-finding conference but they will be present at the discretion of the Investigator.

The Investigator will question the parties and allow Complainants and Respondents alternate opportunities to respond and/or rebut the other party’s statements and to present documents or testimony in support of their own position. The Investigator may identify and request further documentation necessary to investigate the charge.

The Investigator takes informal notes of the statements and responses. In accordance with IDHR Regulations, these investigative notes are privileged and may not be given to either party. The conference is not a formal hearing and no stenographic transcript is produced by IDHR.

If the Investigator does not convene a fact-finding conference, the Investigator will gather facts and evidence in separate contacts with Complainants and Respondents.

The Findings and Results

After the investigation, a written report is prepared recommending whether or not there is “substantial evidence” of a violation of the Act. A finding of “substantial evidence” means that there is enough evidence for the Complainant to take the case either before an administrative law judge at the Illinois Human Rights Commission (“Commission”) (an agency that conducts hearings on complaints filed by IDHR on behalf of Complainant or by Complainant) or an appropriate state circuit court. That forum (either the Commission or the circuit court) will hear testimony, receive evidence and determine whether unlawful discrimination occurred.

If substantial evidence is found, Complainant has the option of either 1) requesting (within the time period specified in the Act) IDHR to file a complaint, on Complainant’s behalf, with the Commission, OR, 2) commencing a civil action (within the time period specified in the Act) in a state circuit court of appropriate venue.

In housing cases, or if Complainant requests IDHR to file a complaint with the Commission, an IDHR attorney will be assigned to help the parties resolve or “conciliate” the charge. If a settlement agreement is not reached, IDHR will file a Complaint of Civil Rights Violation with the Commission on behalf of Complainant. Complainant bears the burden of proving the case before the Commission.

If IDHR finds a “lack of substantial evidence” of discrimination, it will dismiss the charge. Within the time



frame specified in the Act, Complainant has the option of either 1) filing a Request for Review with the Commission*, OR, 2) commencing a civil action in a state circuit court of appropriate venue. (In housing cases, only option #1 applies.)

In addition, within the time frame specified in the Act, Respondent may file a Request for Review with the Commission* if a “Notice of Default” is issued by IDHR. Final orders of the Commission may be appealed to the appropriate appellate court.

**For charges filed before 1/1/08, a Request for Review is filed with the IDHR’s Chief Legal Counsel.*

The Human Rights Act requires that IDHR conclude all proceedings and make a finding within 365 days of filing a perfected charge or as extended by written agreement of the parties. (Housing charges are to be completed within 100 days after filing, unless it is impracticable to do so.) IDHR makes every attempt to complete a timely investigation. However, the investigator may request an extension of time to complete the investigation. If one or both of the parties refuse to sign an extension, and if IDHR does not issue a finding or notice of dismissal within 365 days after the date the charge was filed, Complainant has 90 days to either file a complaint with the Commission OR commence a civil action in a state circuit court of appropriate venue. If Complainant does not file a complaint with the Commission or commence a civil action in state circuit court, no further action will be taken on the case. (Extensions are not needed in housing cases.)

The Illinois Human Rights Commission

The Commission is a separate state agency that conducts public hearings on complaints filed by IDHR. IDHR does not represent either party at the Commission. Both parties may obtain legal

representation to properly present or defend the case before the administrative law judge and the Commission.

If the Complainant wins at this level, the judge can order remedies allowed by the Act to make the Complainant “whole.” Remedies may include back pay, lost benefits, clearing of personnel file, emotional damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, and attorney’s fees and costs. Punitive damages, that is, damages intended to punish the employer, are not available pursuant to the Act.

Relationship with Federal Agencies and Federal Courts

In order to preserve the Complainants’

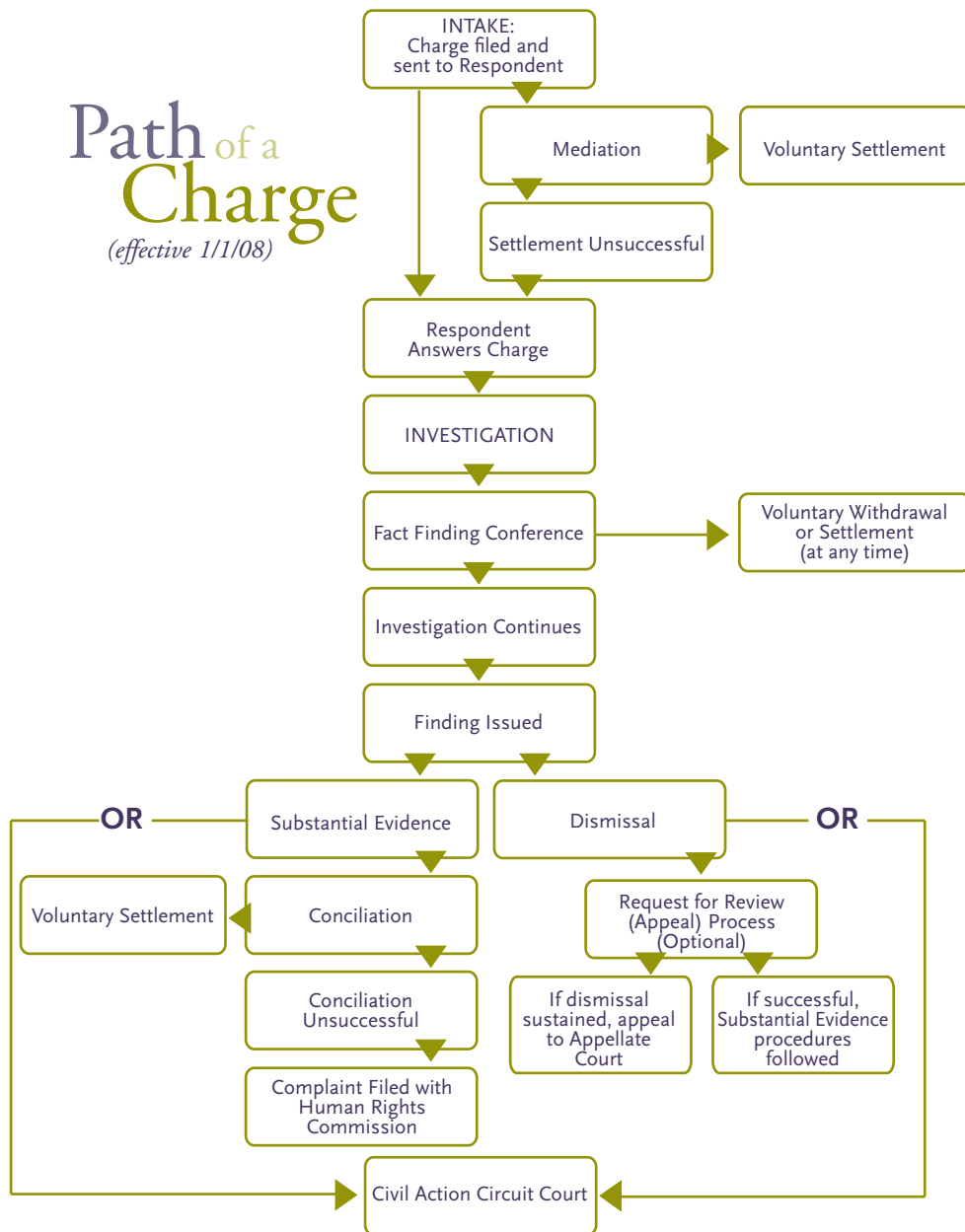
federal rights, IDHR automatically cross-files eligible employment charges with the U.S. Equal Employment Opportunity Commission (EEOC), and conducts the investigation for EEOC under the terms of the agencies’ Worksharing Agreement. Similarly, housing cases are cross-filed with the U.S. Department of Housing and Urban Development (HUD).

The Complainant in an employment charge may at any time request a “Right to Sue Notice” from EEOC which allows him/her to file the case in federal court. If a Right to Sue Notice is requested, you are encouraged to withdraw your case at IDHR. If a complaint with the same issues as those filed with IDHR is filed in federal court and you have not withdrawn, IDHR will suspend the investigation.

It is advisable to consult an attorney before withdrawing the charge to determine if this is the best course of action. In keeping with IDHR’s neutral role, IDHR representatives cannot give legal advice to Complainants or Respondents.

Path of a Charge

(effective 1/1/08)



Other Services Provided by IDHR

Training: The Institute for Training and Development ("Institute") conducts, throughout Illinois, training designed to increase respect among diverse cultures both in the workplace and at home. Using real-life scenarios, certified trainers provide information on fair-employment laws and practices, ways to resolve conflict through better understanding, and non-discrimination requirements such as sexual harassment prevention. Handouts are supplied for independent study and on-the-job reference tools. The Institute is approved by the HR Certification Institute and offers training modules for HR Certification. Both public and private sessions are offered. Fees may apply to on-site training. For more information or to schedule training, call (312) 814-2477.

Affirmative Action Enforcement: The State Agency Liaison Unit monitors and provides technical assistance to state executive agencies for equal employment opportunity and affirmative action ("EEO/AA") compliance. The Unit also represents the agency on the state Interagency Committee on Employees with Disabilities ("ICED").

Public Contracts: All persons and companies employing 15 or more individuals at anytime during the 365 day period immediately preceding the date of filing wishing to do business with any state entity in Illinois must register for an eligible bidder number through the Public Contracts Unit to ensure that they have implemented equal employment policies and are following IDHR rules and regulations.

Education and Outreach: The Outreach staff is the public relations arm of IDHR. In an ongoing effort to keep the public informed about human rights issues, staff coordinates workshops, training, events and programs geared towards community and civic organizations, as well as responds to requests for information from media outlets and the general public.



For More Information Contact:

The Illinois Department of Human Rights

Office Hours: Monday through Friday 8:30 a.m. to 5:00 p.m.

Intake interviews: Monday through Thursday, 8:30 a.m. to 3:00 p.m.

(No intake interviews are conducted on Fridays.)

Website: www.illinois.gov/dhr

In Chicago:

James R. Thompson Center

100 West Randolph Street, Suite 10-100

Chicago, IL 60601

(312) 814-6200 or (800) 662-3942

(866) 740-3953 (TTY)

(312) 814-6251 Fax

In Springfield:

222 South College St., 1st Floor

Springfield, IL 62704

(217) 785-5100

(866) 740-3953 (TTY)

(217) 785-5106 Fax

In Marion:

2309 W. Main St.

Marion, IL 62959

(618) 993-7463

(866) 740-3953 (TTY)

(618) 993-7464 Fax

This pamphlet is intended as a general guide for understanding the major services and processes of the Illinois Department of Human Rights. This guide will not answer all questions about discrimination and any individual case may proceed differently from what is described. IDHR has specific regulations and procedures it applies to each case. Please call IDHR's office nearest you with any questions about any of the topics described.

In compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Illinois Human Rights Act, IDHR will ensure that all programs are readily accessible to and usable by qualified individuals with disabilities. The ADA Coordinator can provide additional information about compliance requirements, at (217)785-5119 (Voice) or (866) 740-3953 (TTY).

By the Authority of the State of Illinois
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